United Nations S/2003/389

Security Council

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Letter dated 28 March 2003 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

On instructions from my Government, I transmit to you herewith a letter dated 28 March 2003 from Mr. Naji Sabri, Minister for Foreign Affairs of the Republic of Iraq, concerning steps being taken by the Security Council to amend the memorandum of understanding of 20 May 1996 between the Government of Iraq and the Secretariat of the United Nations (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Permanent Representative

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Annex to the letter dated 28 March 2003 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

We have learned that consultations are taking place in the Security Council concerning an amendment to the memorandum of understanding of 20 May 1996 between the Government of the Republic of Iraq and the Secretariat of the United Nations on the implementation of Security Council resolution 986 (1995).

We find it odd that the Security Council should proceed to have such discussions at a time when it should be assuming its primary responsibility under the Charter of the United Nations to maintain international peace and security and to suppress aggression, following the launching by the United States and the United Kingdom of their large-scale military attack by land, sea and air against Iraq at dawn on Thursday, 20 March 2003. The two countries announced that the objective of the attack was to occupy Iraq and to change its political regime as a first step towards changing the political map of the Middle East region, to ensure the interests of the United States and Israel. Considering that the American-British invasion and aggression against Iraq is a grave threat to international and regional peace and security, the international community expects the Security Council to take the necessary measures under Chapter VII of the Charter to restore international peace and security and to suppress the aggression, rather than to engage in premature discussion of one of the aggression's by-products, thus serving the interests of its perpetrators, without regard to their criminal aggression against the people of Iraq, the Charter of the United Nations, the international community and its values.

Any discussion of an amendment to the memorandum of understanding and the oil-for-food programme without Iraq's participation is a blatant violation of Security Council resolution 986 (1995) and brooks no justification whatsoever. The programme was operating with full cooperation between the Government of Iraq and the Secretariat of the United Nations until the Secretariat decided on 17 March 2003 to withdraw the programme's staff from Iraq on the grounds of fears for the safety of international staff arising from an American-British attack on that country. There is no legal or moral basis for such a pretext. The programme's staff should return to Iraq and resume their work, as a deterrent to the aggression; instead, the Security Council is ignoring the attack and discussing ways of dealing with one of its results in a manner which violates its own resolutions, including resolution 986 (1995).

In discussing modifications to the memorandum of understanding and the oil-for-food programme, I should like to remind you that the fifth preambular paragraph of resolution 986 (1995) reaffirms the commitment of all Member States to the sovereignty, territorial integrity and political independence of Iraq. Operative paragraph 18 affirms that "nothing in this resolution should be construed as infringing the sovereignty or territorial integrity of Iraq". Furthermore, the memorandum of understanding of 20 May 1996 between the Government of Iraq and the Secretary-General sets out in detail all the arrangements for implementation of the programme. Thus, the Government of Iraq exports oil and submits a plan for the purchase of humanitarian supplies for approval by the Secretary-General. The Government of Iraq then contracts to purchase such humanitarian supplies, takes delivery and distributes them to the Iraqi people. The Secretariat's role is restricted to observing the exportation of oil and the importation and distribution of humanitarian supplies. Due to the anomalous situation in the three northern

Governorates, it was decided that United Nations agencies should distribute humanitarian supplies there on behalf of the Government of Iraq, in the framework of a distribution plan drawn up by the Government of Iraq with due regard for that country's sovereignty and territorial integrity.

It is thus clear that the oil-for-food programme is a contract between the United Nations and the Republic of Iraq. The legal precept is "*pacta sunt servanda*": if one party violates the conditions of the contract, the other party is absolved of its obligations thereunder. I therefore wish to inform you that the Government of Iraq categorically rejects any amendments which may be imposed on the memorandum of understanding without its consent. Any arrangements made on the basis of such amendments are categorically rejected by the Government of Iraq. Iraq will not export a single barrel of oil unless in the framework of the memorandum of understanding to which it became a party and gave its consent. I wish to inform you that the Government of Iraq will treat any other attempt outside this framework as an operation designed to loot and steal the resources of the Iraqi people, regardless of the cover used for such an attempt. We shall consider it to be an aggressive act and a component of the American-British aggression against Iraq. The party making such an attempt will bear full legal responsibility for this theft. We shall extend the same categorical rejection to the unlawful attempted acts of piracy which certain parties intend to commit against Iraq's assets in the United Nations "Iraq account" or against goods purchased by Iraq under the programme, and now on their way to the country, in an attempt to use them for purposes and under arrangements unforeseen in resolution 986 (1995) and the memorandum of understanding.

The Government of Iraq, which has assumed responsibility for meeting the Iraqi people's humanitarian requirements since the imposition of the unjust blockade on 6 August 1990, pledges to cover the Iraqi people's requirements under all circumstances. Accordingly, any attempt to bring any supplies into Iraq without its consent, under the cover of so-called humanitarian assistance, is designed to embellish the odious American-British aggression and to disguise its wicked colonialist purposes. It is thus a part of the colonialist American-British operation of aggression against Iraq.

The whole international community has condemned this invasion and aggression as a flagrant violation of the principles of international law and the Charter of the United Nations, an offence against international legitimacy , a grave threat to international peace and security and a blatant act of defiance against the international community and world public opinion. The countries of the world have issued statements which deplore the invasion and call for an immediate cessation and withdrawal of the invading forces from Iraqi territory. These include the resolution adopted by the Council of Arab Ministers for Foreign Affairs at its conference on 24 March 2003, which condemned the American-British aggression, called for an immediate and unconditional withdrawal of the invading American-British forces from Iraqi territory and imposed on those forces the material, moral and legal responsibility for the aggression.

It is the aggression and the American-British invasion which are the essential cause of the Iraqi people's suffering. The only way to deal with this suffering is for the Security Council immediately to assume its responsibilities and to take a decision leading to an immediate cessation of the American-British aggression against Iraq and an immediate and unconditional withdrawal of the invading forces

from Iraqi territory. The aggression, which began nine days ago, took civilians and civilian premises and facilities as its first target. The American-British forces are carrying out continuous raids on residential quarters in Iraqi cities and villages, at a rate of 1,000 air raids and 1,000 missiles each day, using proscribed weapons such as cluster bombs and depleted-uranium warheads. By 28 March 2003, the invasion and aggression had caused the death of 357 civilians and injuries to 3,650 others. The aggressors have also destroyed much of Iraq's economic and social infrastructure, including hospitals, schools, universities, roads, bridges, electric power stations, water purification plants, telephone exchanges and radio and television broadcasting stations. The hostile American and British forces are also laying siege to Iraqi cities such as Basra and Faw and depriving them of food and medical supplies. They are also besieging the main Iraqi port of Umm Qasr, destroying the port's jetties and preventing the delivery of shipments of food, medicines and other humanitarian requirements contracted for by the Government of Iraq under the memorandum of understanding and the oil-for-food programme. The American and British aggressor forces have even resorted to preventing ambulances from transporting the wounded for treatment outside the cities, in one of the most repugnant crimes of genocide, war crimes and crimes against humanity witnessed by our modern world. This crime continues to be committed before the eyes of the Security Council and the international community.

(*Signed*) Naji **Sabri**
Minister for Foreign Affairs of the Republic of Iraq

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Letter dated 27 March 2003 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council

I have the honour to refer to document S/2003/40 dated 14 February 2003 relating to matters of which the Security Council is seized. I wish to inform you that my country requests the retention of the following items, contained in paragraph 8 of the aforementioned document:

1. Item 1. The Palestine question.
2. Item 9. Letter dated 3 December 1971 from the Permanent Representatives of Algeria, Iraq, the Libyan Arab Republic and the People's Democratic Republic of Yemen to the United Nations addressed to the President of the Security Council (S/10409).
3. Item 16. The Middle East problem, including the Palestinian question.
4. Item 17. Request by the Libyan Arab Republic and Pakistan for consideration of the serious situation arising from recent developments in the occupied Arab territories (S/12017).
5. Item 19. The question of the exercise by the Palestinian people of its inalienable rights.
6. Item 22. Letter dated 19 February 1983 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/15615).
7. Item 23. Letter dated 8 August 1983 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/15914).
8. Item 24. Letter dated 22 March 1984 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/16431).
9. Item 27. Letter dated 15 April 1986 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/17991).

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10. Item 29. Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/20364).

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Ahmed A. **Own**
Chargé d'affaires a.i.

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Security Council

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31 March 2003

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Letter dated 28 March 2003 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

Upon instruction from my Government, I have the honour to bring to your attention the instances in which the airspace of the Islamic Republic of Iran was violated or its territory hit by the belligerents in the ongoing war against Iraq:

1. On 21 March 2003, at 1930 hours, a missile hit the Abadan refinery (Station 10 Bahar-the metal workshop), causing material damage. The assessment made by the Iranian Armed Forces, on the basis of the date, the direction of the missile, its fragments and the absence of any Iraqi aircraft in the vicinity at the time of the incident, determined that the missile was from coalition forces.

2. On 21 March 2003, three rockets landed in Saleem, on the outskirts of the city of Abadan, causing material damage.

3. On 25 March 2003:

(a) Between 0845 and 0915 hours, three warplanes belonging to coalition forces violated Iranian airspace for about three miles in an area of west of the town of Shush. Upon being warned, they returned to Iraqi airspace.

(b) Between 1930 and 1934 hours, two warplanes belonging to coalition forces violated Iranian airspace for about five miles in an area across from Talaiya. Upon being warned, they returned to Iraqi airspace.

(c) On 21 March 2003, one Iraqi S-200 missile hit the area of Genavileh village, in Sardasht.

While putting on record the strongest protests of the Islamic Republic of Iran and reserving the right to seek compensation for the damage incurred, I wish to underline the imperative for the belligerents to adopt strict measures aimed at preventing the recurrence of similar violations in the future. My Government urges them, also, to fully respect the neutrality of the Islamic Republic of Iran in the ongoing conflict.

I should be grateful if you would have the present letter circulated as a document of the Security Council.

(*Signed*) M. Javad **Zarif**
Ambassador
Permanent Representative

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Letter dated 28 March 2003 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

In response to the letter dated 4 March 2003 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General and its annex, circulated as a document of the Security Council (S/2003/249), I have the honour to transmit herewith the memorandum entitled "The truth about the events in Khojaly: Evidence from Azerbaijani sources" (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Movses **Abelian**
Ambassador
Permanent Representative

03-30332 (E) 010403

Annex to the letter dated 28 March 2003 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

[Original: English]

The truth about events in Khojaly

Evidence from Azerbaijani sources

For 11 years after the events in Khojaly, official Baku has been obstinately fanning anti-Armenian hysteria with the aim of falsifying the real events and discrediting the Armenian people in the eyes of the international community.

The events in Khojaly, which led to the deaths of civilians, were the result solely of political intrigues and a struggle for power in Azerbaijan.

The real reasons are most convincingly reflected in the accounts of Azerbaijanis themselves — as participants in and eyewitnesses of what happened — as well as of those who know the whole inside story of the events in Baku.

According to Azerbaijani journalist M. Safarogly, "Khojaly occupied an important strategic position. The loss of Khojaly was a political fiasco for Mutalibov".[1]

Khojaly, along with Shusha and Agdam, was one of the main strongholds from which Stepanakert, the capital of the Nagorny Karabakh Republic, was shelled continuously and mercilessly for three winter months with artillery and missiles and launchers used for targeting cities.

Knocking out the weapon emplacements in Khojaly and freeing the airport were the only way for the Nagorny Karabakh Republic to ensure the physical survival of a population condemned by Azerbaijan to complete annihilation. The daily shelling of Stepanakert from nearby Khojaly took the lives of hundreds of peaceful inhabitants — women, children and old people.

Former President of Azerbaijan Ayaz Mutalibov has stated that "the assault on Khojaly was not a surprise attack".[2] In a *Nezavisimaya gazeta* newspaper interview he emphasized that "a corridor was kept open by the Armenians for people to leave".[3] However, a column of civilians was fired on by armed units of the Popular Front of Azerbaijan on the approaches to the Agdam district border, a fact later confirmed by Ayaz Mutalibov, who linked this criminal act to attempts by the opposition to remove him from power, and blamed it entirely for what happened. In his interview with *Novoye vremya* magazine, Mutalibov stated that "the shooting of the Khojaly residents was obviously organized by someone to take control in Azerbaijan".[4]

Similar comments and views concerning the events in Khojaly are known to have been made by several other highly placed Azerbaijani officials and journalists.

There is, moreover, the conclusion of Azerbaijani journalist Arif Yunusov, which differs somewhat from the previous statements: "The town and its inhabitants were deliberately sacrificed for a political purpose — to prevent the Popular Front

of Azerbaijan from coming to power".[5] In this case, though, the Azerbaijanis themselves are named as the perpetrators of the tragedy.

What resulted from the betrayal of the inhabitants of Khojaly by their own high ranking compatriots is well known. Azerbaijani propaganda has railed to the whole world about the "atrocities of the Armenians", supplying television stations with horrendous pictures of a field strewn with mutilated bodies. Khojaly is claimed to have been "the Armenians' revenge for Sumgait".

Tamerlan Karayev, at one time Chairman of the Supreme Council of the Republic of Azerbaijan, bears witness: "The tragedy was committed by the authorities of Azerbaijan", and specifically by "someone highly placed".[6]

The Czech journalist Jana Mazalova, who by an oversight of the Azerbaijanis was included in both of the groups of press representatives to be shown the bodies mutilated by "the Armenians", noted a substantial difference in the two cases. When she went to the scene immediately after the events, Mazalova did not see any traces of barbarous treatment of the bodies. Yet a couple of days later the journalists were shown disfigured bodies already "prepared" for taping.

Who killed the peaceful inhabitants of Khojaly and then mutilated their bodies, if the tragedy occurred not in a village taken by Armenians or on the route of the humanitarian corridor, but on the approaches to the town of Agdam — on the territory fully controlled by the Popular Front of Azerbaijan?

The independent Azerbaijani cameraman Chingiz Mustafaev, who took pictures on 28 February and 2 March 1992, had doubts about the official Azerbaijani version and began his own inquiry. The journalist's very first report to the Moscow news agency D-Press on the possible complicity of the Azerbaijani side in the crimes cost Mustafaev his life: he was killed not far from Agdam under circumstances that are still unexplained.

The current President of Azerbaijan, Heydar Aliyev, himself recognized that Azerbaijan's "former leadership were also guilty" of the events in Khojaly. Already in April 1992, according to the agency Bilik-Dunyasy, he had commented as follows: "The bloodshed will be to our advantage. We should not interfere in the course of events". To whose "advantage" was the bloodletting is clear to everyone. *Megapolis-Express* wrote: "It cannot be denied that if the Popular Front of Azerbaijan actually set far-reaching objectives, they have been achieved. Mutalibov has been compromised and overthrown, public opinion worldwide has been shaken, and the Azerbaijanis and their Turkish brethren have believed in the so-called genocide of the Azerbaijani people in Khojaly".[7]

One other tragic detail. It has become clear since the events that 47 Armenian hostages were already being held on 26 February in "peaceful" Khojaly, a fact that the Azerbaijani mass media "covering" the tragedy have failed to mention. After the liberation of Khojaly only 13 hostages (including 6 women and 1 child) were found there, the other 34 having been taken away by the Azerbaijanis to an unknown location. The only thing known about them is that they were led from the village on the night of the operation, but never reached Agdam. There is still no information concerning what eventually happened to them or confirming that they continued to be held captive by the Azerbaijanis.

Obviously, those who wanted to create the impression that bodies had been mutilated by the Armenians first of all disfigured the bodies of those same Armenian hostages, in order to make it impossible to identify them. Precisely for that purpose the outer clothing was removed from many of the bodies, and precisely for that reason the bodies of the unfortunate victims were damaged so badly that they became unrecognizable.

In the light of the above facts it may confidently be said that the killing of peaceful inhabitants of the village of Khojaly and of the Armenian hostages being held there was the work of the Azerbaijani side, which committed this crime against its own people in the name of political intrigues and the struggle for power.

Notes

[1] *Nezavisimaya gazeta* newspaper, February 1993.

[2] *Ogonyok* magazine, Nos. 14-15, 1992.

[3] *Nezavisimaya gazeta* newspaper, 2 April 1992.

[4] *Novoye vremya* newspaper, 6 March 2001.

[5] *Zerkalo* newspaper, July 1992.

[6] *Mikhalifat* newspaper, 28 April 1992.

[7] *Megapolis-Express*, No. 17, 1992.